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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/830,055 | 04/23/2004 | Hiroshi Tsunehara | 023971-0416 | 8713 |
| 22428 | 7590 | 02/24/2005 | EXAMINER | |
| FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007 | | | TORRES, MELANIE | |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 3683 |

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/830,055 | TSUNEHARA ET AL. | |
| | Examiner | Art Unit | |
| | Melanie Torres | 3683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 April 2004.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) 6 and 15-22 is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-5,7-10,14,23 and 24 is/are rejected.
7) Claim(s) 11-13 is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/4/04, 10/01/04.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: 4/23/04.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species C in the reply filed on February 7, 2005 is acknowledged.

Claims 6 and 15-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 7, 2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Burgdorf et al.

Re claims 1-5, 7, 23 and 24, Burgdorf et al. teach a brake system for a vehicle, comprising: a first brake system that mechanically applies a braking force to wheels (12, 13) according to a master cylinder hydraulic pressure outputted from a master cylinder (5) which receives a brake manipulation force of a driver; and a second brake system that applies a braking force to other wheels (19, 20) according to at least a braking state of the first brake system.

4. Claims 1, 3, 4, 7-10, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Klein et al.

Re claims 1, 3, 4, 7-10, 23 and 24, Klein et al. teach a brake system for a vehicle, comprising: a first brake system that mechanically applies a braking force to wheels (3, 4) according to a master cylinder hydraulic pressure outputted from a master cylinder (2) which receives a brake manipulation force of a driver; and a second brake system that applies a braking force to other wheels (10, 11) according to at least a braking state of the first brake system.

5. Claims 1, 3, 5, 7-10, 14, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0649781.

Re claims 1, 3, 5, 7-10, 14, 23 and 24, EP 0649781 teaches a brake system for a vehicle, comprising: a first brake system that mechanically applies a braking force to wheels (FW) according to a master cylinder hydraulic pressure outputted from a master cylinder (1) which receives a brake manipulation force of a driver; and a second brake system that applies a braking force to other wheels (RW) according to at least a braking state of the first brake system.

Allowable Subject Matter

6. Claims 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Soga, Kidston et al. and Takahashi teach brake systems comprising: a first brake system that mechanically applies a braking force to wheels according to a master cylinder hydraulic pressure outputted from a master cylinder which receives a brake manipulation force of a driver; and a second brake system that applies a braking force to other wheels according to at least a braking state of the first brake system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie Torres whose telephone number is (703)305-0293. The examiner can normally be reached on Monday-Friday, 6:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703)308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie Jones

MT
February 19, 2005